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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/061,343 | 02/04/2002 | Bernadette M. Gibbs | 53394.000605 | 4731 |

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| EXAMINER |
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ANDERSON, CATHARINE L

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| ART UNIT | PAPER NUMBER |
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3761

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/061,343

Applicant(s)

GIBBS, BERNADETTE M.

Examiner

C. Lynne Anderson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 19-30 and 38-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 19-30 and 38-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 19, 20, and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Hisada et al. (5,851,205).

Hisada discloses a fastener tab 10 for use on an absorbent garment 1, as shown in figure 1. The absorbent garment 1 comprises a chassis 3 and an absorbent core 4. The fastener tab 10 comprises a tab body 20, as shown in figure 2, having a proximal edge 20C, a distal edge 20D, and a top edge 20A, and a bottom edge 20B. The fastener tab 10 further comprises a fastening area 21, as shown in figure 5, having a first edge, wherein a first tangent line tangent to a first portion of the first edge intersects a second tangent line tangent to a second portion of the first edge. The first and second tangent lines are not parallel to the primary pull direction, the top edge, or the bottom edge of the fastener tab 10, as shown in figure 5. The fastening area 21 further comprises a second edge, as shown in figure 5, having first and second portions that are parallel to the corresponding portions of the first edge. The fastening area 21

comprises the entire region to be fastened, and therefore comprises the entire area of fastener material. The second edge of the fastening area 21 therefore is the curved edge closest to the attachment point of the tab 10 to the chassis 3, as shown in figure 5.

Claims 42-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Guralski et al. (6,743,321).

Guralski discloses an absorbent garment, as shown in figure 4, comprising a main body having a longitudinal and a cross direction. The garment further comprises a pair of fastener tabs 42 that are stretchable in the cross direction, as disclosed in column 11, lines 47-50. The fastener tabs 42 are attached to the main body, as shown in figure 4, and have a proximal end and a distal end connected along the top and bottom by end edges, and a width defined there between. The fastener tabs 42 has a deadened zone 51, as shown in figure 4, comprising a non-stretchable material, the deadened zone 51 created by a segment of hook and loop material attached to the fastener tabs 42, as disclosed in column 14, lines 54-55. The deadened zone 51 has first and second edges, which are parallel to each other but non-parallel to the end edges of the fastener tabs 42, as shown in figure 4. At least a portion of the hook and loop material extends linearly, as shown in figure 4.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to

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be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-11, 21-30 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hisada et al. (5,851,205) in view of Gesp (5,507,097).

With respect to claims 2 and 21, Hisada discloses all aspects of the claimed invention with the exception of a portion of the tab body 20 being elastic. Gesp teaches the use of an elastic material as fastener tabs for diapers in order to provide the wearer of the diaper with improved comfort, as described in column 1, lines 10-14. It would therefore be obvious to one of ordinary skill in the art at the time of invention to make the fastener tab of Hisada elastic, as taught by Gesp, to provide the wearer of the diaper with improved comfort.

With respect to claims 3-8 and 22-27, Hisada shows in figure 5 fastening area 21. The fastening area 21 has a first edge, closest to the distal edge 20D of the tab, having a first portion, comprising the top half of the fastening area, which is curved. The curved first portion is at one point concave toward the proximal edge 20C and at a second point convex toward the proximal edge 20C. The first edge of the fastening area 21 also has a second portion, comprising the bottom half of the fastening area, which is curved. The curved second portion is at one point concave toward the proximal edge 20C and at a second point convex toward the proximal edge 20C.

With respect to claims 9-11 and 28-30, the first portion or second portion of the first edge may be defined to consist of the flat part of the edge closest to the distal edge 20D, as shown in figure 5, which is straight.

With respect to claims 38-40, it would have been an obvious matter of design choice to make the first edge stop short of the top and bottom edges of the tab body, since the applicant has not disclosed that this configuration serves any particular purpose or solves any stated problem, and it appears the invention would function equally well with the first edge meeting or stopping short of the top and bottom edges of the tab body.

Response to Arguments

Applicant's arguments filed 19 August 2004, with respect to the rejection of in view of Hisada have been fully considered but they are not persuasive.

Hisada discloses all aspects of the claimed invention, as described in the rejection of claim 1 above. Specifically, Hisada discloses a second edge to the fastening area, as shown in figure 5. The fastening area comprises the entire region to be fastened, and thus includes the entire area of fastener material. The second edge of the fastening area is therefore the curved edge located closest to the attachment point of the fastener tab to the chassis, as shown in figure 5. This edge is, along each portion, parallel to a corresponding portion of the first edge of the fastening area. Hisada therefore fulfills claimed limitations.

Applicant's arguments with respect to claims 42-46 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

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See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (703) 308-1412. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

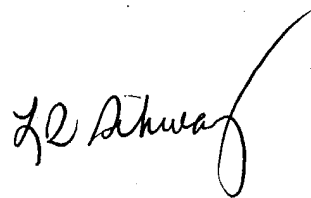
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WA

cla

October 15, 2004



Larry I. Schwartz
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Group 3700